

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SCOTT BARBER,

Plaintiff,

v.

**Civil Action 2:22-cv-910
Judge James L. Graham
Magistrate Judge Chelsey M. Vascura**

**XPRT RESTORTATION COLUMBUS,
LLC, *et al.*,**

Defendants.

REPORT AND RECOMMENDATION

Plaintiff filed his Complaint against Defendants, Xpert Restortation Columbus LLC, Gary Blakeney, Gabe Polsekio, and Suzanne Blakeney on February 22, 2022 (ECF No. 1). After 90 days passed without Plaintiff filing evidence of service of process over Defendants Gabe Polsekio and Suzanne Blakeney as required by Federal Rule of Civil Procedure 4(m), the Court ordered Plaintiff on June 2, 2022, to show cause within fourteen days why the Court should not dismiss his claims against these Defendants without prejudice for failure to effect service, and why the Court should allow an extension of time to effect service. (Show Cause Order, ECF No. 17.)

To date, Plaintiff has not responded to the Show Cause Order or effected service on the Defendants in question. It is therefore **RECOMMENDED** that Plaintiff's claims against Defendants Gabe Polsekio and Suzanne Blakeney be dismissed without prejudice pursuant to Rule 4(m) for failure to timely effect service of process.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

/s/ Chelsey M. Vascura
CHELSEY M. VASCURA
UNITED STATES MAGISTRATE JUDGE